

FILED  
U.S. DISTRICT COURT  
EASTERN DISTRICT ARKANSAS

MAY 22 2007

JAMES W. McCORMACK, CLERK  
By: \_\_\_\_\_  
*[Signature]*  
DEP CLERK

UNITED STATES OF AMERICA

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v.

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NO: 4:05cr00216 JFF

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T. MICHAEL GILLUM

\*

### MEMORANDUM AND ORDER

Defendant T. Michael Gillum has filed a Motion to Quash a Third-Party Summons (Docket No. 13). The summons was issued by the Internal Revenue Service to Chase Home Finance LLC in order to obtain financial records for certain bank accounts belonging to Gillum. For the reasons set forth herein, the Defendant's motion is DENIED.

#### **I. BACKGROUND**

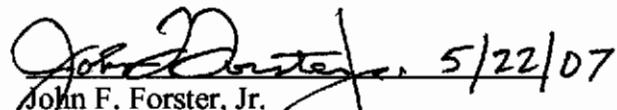
Defendant Gillum was charged with willful failure to file tax returns and supply information in August 2005. The charges were heard in this court pursuant to consent of the parties. Gillum entered a plea on December 12, 2005 and this case was closed. On February 20, 2007, Gillum filed his motion with this court, requesting that the summons issued by the IRS to Chase Home Finance, LLC be quashed because the IRS was not acting in good faith, pursuant to *U.S. v. Lasalle National Bank*, and was seeking to pursue criminal matters which had already been resolved by the plea bargain entered in the instant case.

#### **II. DISCUSSION**

This court has no jurisdiction to hear the instant motion. The proper court to instigate proceedings to quash an IRS summons is the United States district court where the person to be summoned is found, as clearly stated in 26 USC § 7609(h)(1). Gillum has filed this motion with the district court in the closed criminal case, instead of beginning a civil matter in the appropriate district court.

Additionally, Chase Home Finance, LLC is a Delaware corporation, headquartered in Columbus, OH. Numerous courts have found that they lacked jurisdiction to entertain suits to quash third-party summonses which were not filed in the district in which the entity to be summoned resided.<sup>1</sup>

Because Chase Home Finance, LLC is an entity in Columbus, OH, this court has no jurisdiction to hear the case, and thus, the motion (Docket No. 13) is DENIED.

  
John F. Forster, Jr.  
UNITED STATES MAGISTRATE JUDGE

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<sup>1</sup> See: *Dennis v. U.S.*, 660 F.Supp. 870 (C.D. Ill. 1987); *Deal v. U.S.*, 759 F.2d 442 (C.A. 5 (Tex) 1985); *Masat v. U.S.*, 745 F.2d 985 (C.A.5 (Tex) 1984); *Dial v. U.S.*, 599 F. Supp. 475 (S.D. Tex. 1984); *Smith v. U.S.*, 598 F.Supp 753, (D. Conn. 1984); *Bilodeau v. U.S.*, 577 F. Supp. 234 (D.C. N.H. 1983)